



ZONING ADMINISTRATOR NOTICE OF DECISION

Date: April 14, 2011
Applicant: Village Club Cardroom
Case No.: PCC-11-003
Address: 429 Broadway
Project Planner: Michael W. Walker

Notice is hereby given that on April 14, 2011 the Zoning Administrator considered Conditional Use Permit (CUP) application PCC-11-003, by Harvey F. Souza, owner of Village Club Cardroom ("Applicant"). The Applicant requests a CUP to amend a previously approved CUP (PCC-00-16) to add two gaming tables to the existing Village Club establishment ("Project"). The Project is located at 429 Broadway ("Project Site") and is owned by Harvey F. Souza and Bette J. Souza ("Property Owner"). The Project Site is zoned Mid Broadway (UC-13) by the Urban Core Specific Plan (UCSP), and is designated Mixed-Use Residential (MUR) by the General Plan. The Project is more specifically described as follows:

The Village Club Cardroom owner is requesting an amendment to an existing CUP previously approved by City Council on October 23, 2001. That approval allowed: an increase in the number of existing card tables from 10 to 12; serving alcoholic beverages along with food; and operate 24 hours, seven days a week with valet parking for all on-site parking. Currently there are 162 player positions. This amendment proposes to increase the current table count from 12 to 14, and reduce the number of positions to 146 by reducing players at certain gaming tables by reconfiguring the tables. This involves reconfiguring the existing gaming tables to 8 poker tables (9 positions each); 3 Pai Gai tables (14 positions each, a decrease from 28), 1 Baccarat table (16 positions); and 2 Black Jack tables (8 positions each) for a total of 14 tables with 146 gaming positions. No other changes are proposed.

On October 6, 2009 the City Council approved an amendment to the Chula Vista Gaming Plan allowing additional gaming tables from 12 to 16 under a consolidated license the Village Club possesses. The amendment included: 1) removing the requirement to cordon off specific gaming tables; 2) changing the number of players per table by reducing players per type of game, and increasing player numbers for other types of games; 3) increasing the credit line for a player; and 4) changing the time Village Club may serve alcohol. This CUP is consistent with the Chula Vista Gaming Plan amendment.

The Project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it has been determined that the Project qualifies for a Class 1 categorical exemption pursuant to Section 15301 (Existing facilities) of the State CEQA Guidelines. Thus no further environmental review is necessary.

The Zoning Administrator, under the provisions of Sections 19.14.030.A of the CVMC and the provisions in the UCSF, has been able to make the findings for approval of this conditional use permit as required by CVMC Section 19.14.080:

- 1. That the proposed use at this location is necessary or desirable and will contribute to the general well being of the neighborhood or the community.**

The amendment involves reconfiguring the current number of card tables and players seated at each table. Currently there are 12 tables and 162 player positions. The reconfiguration will add two tables (14 tables) and reduce the number of player positions to 146. The existing on-site parking and current parking agreements with the owners of 428 and 430 Broadway provide the necessary parking spaces for the use, with valet service to facilitate the parking arrangements. Expanding the building is not necessary because there is sufficient existing floor space for the reconfiguration for the gaming area.

The Village Club Cardroom use has been in operation at its current location for many years and had at least two amendments since operations began. The owner has interacted with the residences and businesses in the neighborhood to maintain good relations, and has indicated this interaction will continue. This current amendment does not change the scale of the use that would significantly affect the area.

- 2. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.**

The City's Traffic Engineering staff requested a parking and traffic study to analyze how the traffic and parking issue could potentially change with this amendment. Linscott Law & Greenspan Engineers prepared an assessment letter addressing the issue. The following summarizes how the current parking and traffic conditions would not change as a result of the amendment as explained in the letter:

The proposed amendment will increase the number of card tables from 12 to 14 tables while reducing the current number of players seated at each card table from 162 to 146 with each gaming table having a certain number of positions depending on the card game played. This change is accomplished by reconfiguring the gaming area. This involves reconfiguring the existing gaming tables to 8 poker tables (9 positions each); 3 Pai Gai tables (14 positions each, a decrease from 28), 1 Baccarat table (16 positions); and 2 Black Jack tables (8 positions each) for a total of 14 tables with 146 gaming positions.

This CUP amendment will use the previous CUP approval (PCC-00-16) parking calculation of one parking space per 1.5 card players to calculate the required off-street parking. The minimum number of parking spaces required for the 146 player positions is 97 parking spaces. The on-site parking can accommodate up to 88 spaces, and the Applicant has current lease agreements with the property owners of 428 Broadway and 430 Broadway (across the street) to use portions of their parking lot combined to yield 46 additional spaces for a total of 134 available parking

spaces. The Applicant implemented a valet service for customers for both on-site and the parking lots across the street to facilitate the parking system. Based on the required standard established by PCC-00-16, the project, as amended, would provide adequate parking.

The use will not be detrimental to the health, safety and general welfare of residences and businesses in the area nor will the use affect adjacent properties or improvements in the vicinity, and the use is subject to meeting all health, safety and general welfare standards and regulations set forth by the City of Chula Vista

3. That the proposed use will comply with the regulations and conditions specified in the code for such use.

The approval of this conditional use permit is contingent on the Applicant and Property Owner's commitment to satisfy all conditions of approval and to comply with all applicable regulations and standards specified in the Municipal Code. The Applicant has committed to implement and satisfy all conditions of approval for the proposed use, and will comply with all applicable City zoning regulations. The conditions of this permit are approximately in proportion to the nature and extent of the impact created by the use in that the conditions imposed are directly related to, and of a nature and scope related to the size and impact of the use.

4. That the granting of this Conditional Use Permit will not adversely affect the General Plan of the City or the adopted plan of any government agency.

The General Plan land use designation is Mixed-Use Commercial (MUR). The Village Club Cardroom is located within the Urban Core Specific Plan (UCSP). Cardrooms are not permitted within UCSP. However, the Village Club Cardroom is a previously conforming use, which is permitted to continue. Pursuant to CVMC Section 19 64.040, expansion, or amendment in this case, of a previously conforming use is permitted. This conditional use permit satisfies this code section. In addition, the Village Club Cardroom must comply with Department of Justice regulations for gaming operations.

BASED ON THE FINDINGS ABOVE, THE ZONING ADMINISTRATOR hereby approves Conditional Use Permit PCC-11-003, as described above subject to the following conditions of approval:

I. Prior to the approval by the City of Chula Vista for the use of the subject property in reliance upon this approval, the Applicant shall satisfy the following requirement:

1. The Applicant/Representative and Property Owner shall execute this document by making a true copy and signing both this original Notice of Decision and the copy on the lines provided below, said execution indicating that the Applicant/Representative and Property Owner have each read, understood and agreed to the conditions contained herein, and will implement same. Upon execution, the true copy with original signatures shall be returned to the Development Services Department. Failure to return the signed true copy of this document within 30 Days of the effective date herein shall indicate the Applicant/Representative and Property Owner's desire that the project, and

corresponding application for building/grading permits and/or business license, be held in abeyance without approval.

Signature of Applicant/Authorized Representative

Date

Signature of Property Owner/representative

Date

Building Division Conditions:

2. The Applicant shall comply with the 2010 Edition of the California Building as adopted and amended by the City of Chula Vista.

Fire Department Conditions:

3. The Applicant shall show all the tables in the room on a site plan on the building plans.
4. The Applicant shall provide door schedules that give adequate hardware details to determine that the correct exiting hardware, panic hardware and fire exit hardware is being provided, and provide manufacturer name and model number.
5. The Applicant shall provide an egress plan, showing exits, travel distance to exits, separation of exits, and all portions of the means of egress including exit access, exit and exit discharge. This would include travel distance in any common corridors and/or exit courts (service courts).

II. Prior to final inspection or occupancy

6. The Applicant shall ensure that the occupant load per area is clearly described and calculated for each suite area.
7. The Applicant shall ensure that commercial cooking equipment that produces grease laden vapors will be provided with a Type I hood and an automatic fire extinguisher system that is listed and labeled for its intended use.
8. The Applicant shall provide one fire extinguisher for every 3000 square feet and 75 feet of travel in any direction.

III. The following on-going conditions shall apply to the subject property as long as it relies upon this approval.

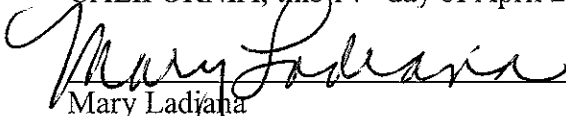
9. The site shall be operated and maintained in accordance with the PCC-11-003 approved plans, date stamped approved on April 14, 2011, which include a site plan, floor plan and

photographs on file in the Planning Division, the conditions contained herein, and Title 19 and the UCSP

10. The Applicant shall maintain all conditions contained in Resolution No. 2001-365 for PCC-00-16 (attached)
11. The Applicant shall maintain the current parking agreements for 428 and 430 Broadway (attached). In the event these agreements are terminated or expire, the Applicant shall inform the City, in writing, about changes to the parking conditions associated with this CUP, and provide proof of other parking arrangements to maintain the 97 required minimum number of parking spaces.
12. This CUP approval is for 14 gaming tables with 146 payer positions. An increase in the number of player positions requires approval of a separate CUP by the Zoning Administrator
13. Approval of this request shall not waive compliance with all sections of Title 19 of the Municipal Code, the UCSP and all other applicable City Ordinances in effect at the time of building permit issuance or the approval of this conditional use permit.
14. The Applicant shall execute this Conditional Use Permit for the Project as described and approved in this document. Any new or change in use or modification/expansion of uses shall be subject to the review and approval of the Zoning Administrator.
15. The Applicant/Representative and Property Owner shall and does hereby agree to indemnify, protect, defend and hold harmless City, its City Council members, officers, employees and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of this Conditional Use Permit, (b) City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated herein, and Applicant/operator shall acknowledge their agreement to this provision by executing a copy of this Conditional Use Permit where indicated below.
16. The Applicant/Representative and Property Owner's compliance with this provision is an express condition of this Conditional Use Permit and shall be binding on any and all of Applicant/Operator's successors and assigns.
17. Any violations of the terms and conditions of this permit may result in the imposition of civil or criminal penalties and/or the revocation or modification of this permit.
18. If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny, or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy

issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. Applicant or a successor in interest gains no vested rights by the City's approval of this Conditional Use Permit.

APPROVED BY ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA,
CALIFORNIA, this 14th day of April 2011.



Mary Ladjana
Zoning Administrator

Attachments:

Resolution 2001-365 (PCC-00-16)
Parking Lease Agreements

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CHULA VISTA GRANTING CONDITIONAL USE PERMIT
PCC-00-16, MODIFYING THE EXISTING PERMIT TO
ALLOW THE EXPANSION OF THE EXISTING CARD ROOM
FACILITY, INCLUDING CLASS II GAMING, AT THE
VILLAGE CARD ROOM, LOCATED AT 429 BROADWAY

A. RECITALS

1. Project Site

WHEREAS, the parcel(s) which are the subject matter of this resolution are represented in Exhibit "A," attached hereto and incorporated herein by this reference, and for the purpose of general description is located at 429 Broadway and 584 Vance Street ("Project Site"); and

2. Project Applicant

WHEREAS, on October 5, 1999, a duly verified application for a conditional use permit (PCC-00-16) was filed with the City of Chula Vista Planning Department by Harvey Souza DBA Village Club ("Applicant"); and

3. Project Description; Application for Conditional Use Permit

WHEREAS, said Applicant requests permission to modify the existing conditional use permit and allow the expansion of the use to increase the number of card tables from 10 to 12, including 3 "Pai-Gow" 3 "21st Century California Style Blackjack," and 6 regular poker card tables; serve alcoholic beverages with food from a service bar to all the card tables; provide 24-hour, 7 day a week operation with an exclusively valet parking arrangement for all parking located on the site ("Project"); and

4. Planning Commission Record of Application

WHEREAS, the Planning Commission held an advertised public hearing on the project on October 17, 2001, and voted 6-0-0-1 recommending that the City Council approve the project in accordance with Resolution PCC-00-16; and

5. City Council Record of Application

WHEREAS, a duly called and noticed public hearing on the project was held before the City Council of the City of Chula Vista on October 23, 2001; to receive the recommendation of the Planning Commission, and to hear public testimony with regard to the same.

NOW, THEREFORE BE IT RESOLVED that the City Council does hereby find, determine, and resolve as follows:

B. PLANNING COMMISSION RECORD

The proceedings and all evidence on the Project introduced before the Planning Commission at their public hearing on this project held on October 17, 2001 and the minutes and resolution resulting therefrom, are hereby incorporated into the record of this proceeding.

C. ENVIRONMENTAL DETERMINATION

The Resource Conservation Commission determined that the Initial Study was adequate and recommended adoption of the Negative Declaration on October 1, 2001. The Planning Commission adopted the attached Resolution PCC-00-16 recommending that the City Council adopt the Negative Declaration on October 17, 2001.

D. CERTIFICATION OF COMPLIANCE WITH CEQA

The City Council does hereby find that the environmental determination of the Resource Conservation Commission and the Planning Commission was reached in accordance with requirements of the California Environmental Quality Act, the State EIR Guidelines, and the Environmental Review Procedures of the City of Chula Vista.

E. CONDITIONAL USE PERMIT FINDINGS

The City Council of the City of Chula Vista does hereby make the findings required by the City's rules and regulations for the issuance of conditional use permits, as hereinbelow set forth, and sets forth, thereunder, the evidentiary basis that permits the stated finding to be made.

1. That the proposed use at this location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or the community.

The former cocktail lounge has been closed and will be converted to additional card room use to allow for the expansion up to 12 card table facility; therefore the expansion will not require additional building area. The parking lot will be enlarged to include the adjacent R-2 zoned vacant lot and a tandem parking arrangement as necessary to meet parking requirements that will require valet parking at all times. The valet parking will allow for additional security in and around the facility, and with a 24-hour operation there will be surveillance of the facility at all times. This aspect should also reduce the vehicular trip generation of card players leaving and returning to the facility, since most card players play for many hours and would not have to leave at any time because of closing or opening times.

In addition, the use and expansion will not harm the general community since the application involves the adaptive re-use of the abandoned portion of the building (Winner's Circle Cocktail Lounge), the expansion of the existing use will be done in such a way as to minimize impacts to neighbors, and it is consistent with the City approved Gaming Plan.

2. That such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.

The remodeling of the card room facility will also include improvements to the site in general. Parking will be eliminated in the front building setback along Broadway, and replaced

with landscape elements. The rear of the building will also include landscape planters. A landscape buffer will be implemented along Vance Street adjacent to the tandem/valet service parking stalls, as well as along the rear property line adjacent to the residential use. A 6-ft. screening wall will also be installed to separate the residential and commercial use. The overall number of driveways to access the site will be reduced and customers must enter at one location for the valets to park their vehicles, reducing the number of potential vehicular and pedestrian conflicts.

In addition, all parking will be provided on-site, the abandoned cocktail lounge building will be remodeled, and the 24-hour valet parking system will increase security in the area.

3. That the proposed use will comply with the regulations and conditions specified in the code for such use.

The use of the property for a card room facility is permitted within the CT zone by way of this conditional use permit. The applicant has strived to bring the subject properties into conformance with current development standards, including additional parking and landscaping elements which substantially reduce the non-conformities to current development standards. The R-2 zoned property adjacent to the east will be incorporated into the parking lot arrangement as allowed by the zoning code as part of this conditional use permit.

In addition, the proposed use will be consistent with all provisions of the City gaming ordinance (Gaming Plan) covering this type of facility.

4. That the granting of this Conditional Use Permit will not adversely affect the General Plan of the City or the adopted plan of any government agency.

The proposed expansion of the existing card room use will not adversely affect the General Plan of the City or the adopted plan of any government agency. The proposed expanded and existing card room use are still subject to and must comply with the City's Gaming Plan as overseen by the Police Department. The expansion will also be consistent with a Security Plan to be approved by the Police Department, State Department of Alcohol Beverage Control (ABC) licensing regulations pertaining to the hours and percentage of alcoholic beverages sold on site, and State Department of Justice Division of Gambling Control licensing regulations pertain to controls to Class I, IA, and II gaming in compliance with the City's approved Gaming Plan.

F. TERMS OF GRANT OF PERMIT

The City Council hereby grants Conditional Use Permit PCC-00-16 subject to the following conditions whereby the Applicant and/or property owners shall:

1. Construct the project as shown on the conceptual site plan, elevations, and landscape plan submitted for review on August 23, 2001. Provide revised plans in compliance with all conditions of approval prior to the issuance of building permits.
2. The card room use shall be permitted 24-hours a day, seven (7) days a week.

3. The time frame for alcoholic beverage sales and consumption shall be limited to between 5 PM to 2 AM (9 hours). Receipts shall be provided at the end of each year to the Police Department to verify that the sale of alcohol is incidental (less than 50 percent) to the sale of food, in compliance with an ABC On-Site General Sale (Type 47) Eating Place (restaurant) license.
4. In the event that the applicant fails to operate the facility in conformance with the Security Plan as approved by the Police Department, or if there are any irregularities or violations of the conditions placed on the card tables, such as the number of persons playing at card tables or the prescribed seating at the card tables as proposed that are occurring at any time, then staff will return the Conditional Use Permit to Planning Commission and City Council for further review or revocation.
5. The adjacent R-2 lot owned by the Applicant will be upgraded with the same paving, striping, and landscaping improvements as the rest of the parking lot. The screening wall shall be increased from a 5-ft. wall to a 6-ft. decorative block wall on the easterly property line, retaining the proposed landscape buffer to separate the commercial and residential use. Submit revised site plans and elevations showing these changes for review and approval prior to the issuance of building permits.
6. The exterior of the cocktail lounge shall be remodeled by extending the mansard roof across the entire building front, and the building shall be anti-graffiti coated as described in Condition No. 21. All rooftop mechanical equipment shall also be screened by means of a parapet or screening material to match the building.
7. The existing signage of the cocktail lounge shall be removed, and the existing pole sign shall be relocated outside the public right-of-way. All remaining signage shall be brought into conformance with the sign ordinance, subject to the approval by the Director of Planning and Building.
8. The parking ratio and requirement shall be 1 parking space per 1.5 card players, for a minimum total of 84 parking spaces for 126 card players. Submit revised site and conceptual landscape plans that shall show the elimination of the five additional parking spaces in order to provide for additional landscape planter areas in conformance with landscaping requirements.
9. The driveway directly in front of the card room building shall be removed and replaced with barrier curb and level sidewalk. The driveways on Vance Street shall be re-aligned with the driveway aisles to eliminate conflicts with the proposed spaces.
10. The driveway aprons and opening shall be removed, replaced or re-aligned in conformance with Chula Vista design standards as required to provide proper circulation within the parking space and driveway aisle arrangement allowed for tandem parking only.
11. The provision to allow for tandem parking within the parking lot shall require that full-time valet parking employees shall be provided to control and access and eliminate all self-parking on 24-hour basis for the entire parking lot.

12. If the valet parking is discontinued for any reason, the applicant shall be required to submit a Conditional Use Permit amendment to modify this Conditional Use Permit. This will require the re-striping of the parking lot for standard parking spaces and driveway aisles, and the card room operation (number of card tables allowed) shall be proportionally reduced based on the parking space allotment, unless additional off-site parking spaces can be appropriately provided to maintain the intensity of use.
13. The handicap access parking space located in the front (20-ft.) along Broadway at the corner of Vance Street shall be eliminated and replaced with a landscape planter area. The applicant may retain four (4) handicapped parking spaces along the north side of the building to meet the code requirement for an 84-space parking lot.
14. Subject to the approval of the Director of Planning and Building, Applicant shall submit a plan to eliminate another four parking spaces and provide four additional landscape planter areas, to be strategically located at the driveway entrances and near walkways per the determination of the Landscape Planner. Another row of palm tree planter shall be incorporated within the easterly triple row of tandem parking spaces similarly to those shown for the westerly triple row of tandem parking spaces.
15. Applicant shall submit a revised conceptual landscape plan subject to the approval of the Director of Planning and Building, incorporating the new additional landscape planter areas and subject to the review of the Landscape Planner. Said plan shall incorporate planting that will be appropriate so that the irrigation and maintenance will be satisfactory to address the longevity and durability of the proposed landscaping.
16. Commercial properties must have enclosures, bins, or carts that meet design specifications. The locations and orientation of storage bins and dumpsters must be pre-approved by the City franchise trash hauling company. Provide sufficient space for designated recyclables. A shared paper/cardboard bin, along with food and beverage container cart with other storage may be permitted. A commercial trash enclosure large enough for solid waste, mixed paper, and a cart for food and beverage containers must be provided to meet the minimum 50 percent recycling requirement. Contact the City Conservation Coordinator at 691-5122.
17. Obtain all necessary permits from the Chula Vista Building Division. Building plans shall include, but are not limited to, plans showing any alterations to plumbing, mechanical, electrical changes, such as walls moved, deleted, etc. Building plans must comply with 1998 California Building Code, Mechanical Code, Plumbing Code, and Electrical Code, as well as Handicapped accessibility requirements and 2001 Energy requirements).
18. Provide building floor plans with complete detail dimensions of all building spaces. The plans shall include, but are not limited to showing all exiting and occupancy loads for each building room or space, and the widths of all openings. Indicate the type of construction of the buildings. Four (4) handicapped access-parking stalls must be shown per conceptual plans that call for 89 parking spaces.
19. The building plans shall include, but are not limited to the requirement to obtain Health Department approval for the restaurant permit. The exterior walls and openings may need to be fire rated. Kitchen services, restrooms and corridors will also need to be fire rated and the

occupancy changed to "A." Any modifications to the roofing will also need to be shown on the building plans.

20. A graffiti resistant treatment shall be specified for all wall and building surfaces. This shall be noted on any building and wall plans and shall be reviewed and approved by the Planning Director prior to issuance of building permits. Additionally, the project shall conform to Sections 9.20.055, 9.20.060, and 9.20.035 of the Chula Vista Municipal Code regarding graffiti control.
21. The Fire Department requirements include, but are not limited to requiring building plans to indicate the occupancy classification change to A-3, the total square footage, exiting, etc. Corridors are required to be a minimum 3-ft. in width. All doors must be a minimum 20-minute fire rated. Changes in floor levels greater than ½ inch shall be accomplished by means of a ramp. Smoke detectors shall be required in every area and in the hallway. Provide one 2A10BC fire extinguisher every 3,000-sq. ft., a 20-ft. access shall be provided around the building for fire trucks. One manual pull station shall be provided at a location approved by the Fire Department.
22. Comply with all requirements of the Police Department. The security plan shall be submitted for Police Department review and approval prior to implementation of the Class II gaming. All card room operations shall comply with the requirements of the Gaming Plan.
23. The parking area needs to have adequate security lighting. In addition, the lighting for the vehicle drop-off and pick-up area needs to have transitional lighting for the safety of the patrons and employees. Lighting for the facility shall be shown on a revised site plan and shall be in conformance with Section 17.28.020 of the Municipal Code. The lighting plan shall include details showing that the proposed lighting shall be shielded to remove any glare from adjacent residential and commercial properties, and shall be reviewed and approved to the satisfaction of the Planning and Building Director.
24. Comply with all requirements of the Chula Vista Public Works Department and Engineering Division. Additional review will be required at the time of building permit approval. Fees, including but not limited to sewer capacity and traffic signal impact fees shall be required.
25. All driveways shall be constructed per Chula Vista standards. All driveway closures, sidewalk, curb, and gutter must be constructed to the standards of the City. All driveways must align properly with adjacent on-site driveways. A construction permit for work in the City's right-of-way will be required for the construction of all driveway aprons per Chula Vista construction standards CVCS-1.
26. The Applicant shall prepare and obtain approval of revised plans from the Traffic Section of the Engineering Division of Public Works Department prior to final approval of the building permit. Said plans shall demonstrate that there is adequate sight distance for drivers to turn right onto Broadway from Vance Street. The curbside parking on the east side of Broadway will be prohibited for a distance of approximately 50-ft. north and south of Vance Street, which will be verified in the field and painted red-curb by the City.
27. The westerly driveway shall also be a one-way driveway similar to the easterly driveway. Applicant shall be responsible for the relocation of the existing streetlight within the project so

that access to the parking lot is maintained. The driveway access along Broadway shall be removed, and the driveways along Vance Street shall be designed and modified to the satisfaction of the City Engineer.

28. The Applicant shall submit a letter to the Sweetwater Authority from the Chula Vista Fire Department stating the fire flow requirements for water prior to the certificate of occupancy. The Sweetwater Authority shall determine if there is a need for new water systems or substantial alteration to the existing water system and Applicant must comply with any such determination.

29. Prior to issuance of building permit, Applicant shall be required to pay all school fees including, but not limited to the Sweetwater Union High School District and Chula Vista Elementary School District. Said fees shall be based on square footage of floor area, to be assessed at the time of building permit issuance.

30. This conditional use permit shall become void and ineffective if not utilized within one year from the effective date thereof, in accordance with Section 19.14.260 of the Municipal Code. Failure to comply with any conditions of approval shall cause this permit to be reviewed by the City for additional conditions or revocation.

31. This permit shall be subject to any and all new, modified or deleted conditions imposed after approval of this permit to advance a legitimate governmental interest related to health, safety or welfare which the City shall impose after advance written notice to the Permittee and after the City has given to the Permittee the right to be heard with regard thereto. However, the City, in exercising this reserved right/condition, may not impose a substantial expense or deprive Permittee of a substantial revenue source, which the Permittee cannot, in the normal operation of the use permitted, be expected to economically recover.

32. Applicant/operator shall and does hereby agree to indemnify, protect, defend and hold harmless City, its Council members, officers, employees, agents and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorneys' fees (collectively, "liabilities") incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of this conditional use permit, (b) City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated herein. Applicant/operator shall acknowledge their agreement to this provision by executing a copy of this conditional use permit where indicated, below. Applicant's/operator's compliance with this provision is an express condition of this conditional use permit and this provision shall be binding on any and all of Applicant's/operator's successors and assigns.

G. EXECUTION AND RECORDATION OF RESOLUTION OF APPROVAL

The property owner and the applicant shall execute this document by signing the lines provided below, said execution indicating that the property owner and applicant have each read, understood, and agreed to the conditions contained herein. Upon execution, this document shall be recorded with the County Clerk of the County of San Diego, at the sole expense of the property owner and/or applicant, and the failure to return a signed, stamped copy of this recorded document within ten days of recordation to the City Clerk shall indicate the property owners/applicant's desire that the project, and the corresponding application for building permits

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Resolution 2001-365

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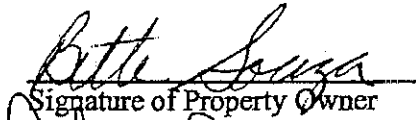
and/or a business license, be held in abeyance without approval. Said document will also be on file in the City Clerk's Office.


Signature of Property Owner

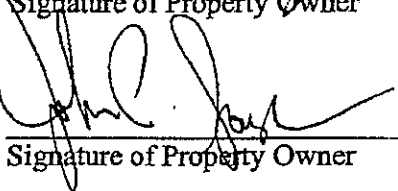
12-04-01
Date


Signature of Property Owner


12-04-01
Date


Signature of Property Owner

12-5-01
Date


Signature of Property Owner

12-5-01
Date


Signature of Representative of
Village Card Room

12-5-01
Date

H. ADDITIONAL TERM OF GRANT

This permit shall expire ten (10) years after the date of its approval by the City Council. After the first five (5) years, the Zoning Administrator shall review this Conditional Use Permit for compliance with the conditions of approval, and shall determine, in consultation with the applicant whether the Conditional Use Permit shall be extended for an additional five (5) years. At any time prior to the ten (10) year expiration date, the applicant may apply for an extension.

I. NOTICE OF DETERMINATION

The City Council directs the Environmental Review Coordinator to post a Notice of Determination and file the same with the County Clerk.


J. INVALIDITY; AUTOMATIC REVOCATION

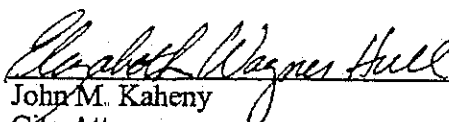
It is the intention of the City Council that its adoption of this Resolution is dependent upon the enforceability of each and every term, provision, and condition herein stated; and that in the event that any one or more terms, provisions, or conditions are determined by a Court of

competent jurisdiction to be invalid, illegal, or unenforceable, this resolution and the permit shall be deemed to be automatically revoked and of no further force and effect ab initio.

Presented by

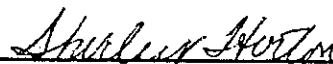
Approved as to form by


Robert A. Leiter
Planning and Building Director


John M. Kaheny
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 23rd day of October, 2001, by the following vote:

AYES:	Councilmembers:	Davis, Rindone, and Horton
NAYS:	Councilmembers:	Salas
ABSENT:	Councilmembers:	Padilla


Shirley Horton, Mayor

ATTEST:


Susan Bigelow, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Susan Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Resolution No. 2001-365 was duly passed, approved, and adopted by the City Council at a regular meeting of the Chula Vista City Council held on the 23rd day of October, 2001.

Executed this 23rd day of October, 2001.


Susan Bigelow, City Clerk

AGREEMENT

This agreement is entered into by the City of Chula Vista, a Municipal Corporation, ("City") and Harvey F. Souza ("Owner").

WHEREAS, by resolution PCC 96-27 the Planning Commission adopted a resolution granting Owner a conditional use permit permitting Owner, as the owner/operator of the Village Club Card Room to operate the business from 9:00 a.m. Sunday to 1:00 a.m. Monday, provided Owner complies with certain conditions;

WHEREAS, one of the conditions of the conditional use permit is that the adjoining bar (Winner's Circle) shall be closed for business during the Sunday hours of operation (9:00 a.m. to 12:00 midnight), or alternatively, the bar may remain open if the applicant is able to obtain off-site parking adequate to accommodate both the cardroom and bar, subject to the requirements of Section 19.62.040 and the approval of the zoning administrator; and

WHEREAS, Owner has obtained off-site parking.

NOW, THEREFORE, THE CITY OF CHULA VISTA and OWNER agree as follows:

1. The foregoing recitals are incorporated into this Agreement.
2. Effectively immediately, on Sundays, Owner will provide fourteen parking spaces at 428 Broadway, Chula Vista, California. This is by means of a Parking Agreement with the owner of the property, Jim Algert. A copy of the Parking Agreement is attached hereto.
3. Effectively immediately, on Sundays, Owner will close one room of the Winner's Circle Bar and limit seating in that establishment to sixteen chairs.
4. If the agreement for use of the property at 428 Broadway is cancelled or the property becomes unavailable for parking for the business for any reason, or if another business (in addition to the 370 square foot barber shop) operates at 428 Broadway, Chula Vista, California on Sundays, Owner will immediately notify the Zoning Administrator and close the Winner's Circle Bar on Sundays until such time as Owner can arrange other offsite parking satisfactory to the Zoning Administrator.
5. Owner understands that violation of the terms of this agreement would be a violation of the zoning laws of the City of Chula Vista and could lead to the loss of the Conditional Use Permit.
6. Owner shall defend, indemnify, protect, and hold harmless the City, its elected and appointed officers and

employees, from and against all claims for damages, liability, cost and expense (including without limitation attorneys' fees) arising out of the conduct of the Owner, or any agent or employee, subcontractors, or others in conjunction with the operation of the business, or parking at either 428 or 429 Broadway, Chula Vista, California, except only for those claims arising from the sole negligence or sole willful conduct of the City, its officers, or employees. Owner's indemnification shall include any and all costs, expenses, attorney's fees and liability incurred by the City, its officer, agents, or employees in defending against such claims, whether the same proceed to judgment or not. Further, Owner at its own expense shall, upon written request by the City, defend any such suit or action brought against the City, its officers, agents, or employees. Owner's indemnification of city shall not be limited by any prior or subsequent declaration by the Owner.

CITY OF CHULA VISTA

Dated: 5/8, 1996

By: Rohit A. Leite

OWNER

Dated: 5-3, 1996

Harvey P. Souza
Harvey P. Souza

PARKING AGREEMENT

This Agreement is made this 30~~4~~ day of April, 1996, between James Algert ("Licensor") and Harvey F. Souza ("Licensee").

WHEREAS:

(a) Licensor is the owner of the property known as 428 Broadway, Chula Vista, California and Licensee is the owner of the business known as The Village club which is located across the street at the property known as 429 Broadway, Chula Vista, California;

(b) Licensee wishes to use Licensor's parking lot on Sundays; and

(c) Licensor does not object to such parking as long as Licensee does not acquire any property, tenancy, or easement rights, Licensee pays for the privilege, and Licensor may prevent such use if Licensor wishes.

THEREFORE, the parties agree as follows:

1. Licensor grants to Licensee a revocable license to use fourteen spaces of the parking lot at 428 Broadway, Chula Vista, California for 17.5 hours every week, from 8:00 a.m. Sunday to 1:30 a.m. Monday, for employee parking. The spaces used must not be those set aside for the use of the 370 square foot barber shop located at 428 Broadway, Chula Vista, California or the spaces used by Licensor. These spaces are the four most southwesterly spaces shown on the attached site plan.

2. The term of the revocable license granted by this Agreement shall be month to month. Either party may terminate this agreement upon thirty days notice to the other party. This agreement shall be considered terminated if another business (in addition to the barber shop) operates at this location on Sundays.

3. As consideration for this agreement, Licensee agrees to pay to Licensor One Hundred Dollars (\$100.00) per month, due on the first day of each month, commencing May 1, 1996. Licensee's use of the parking lot does not constitute a tenancy.

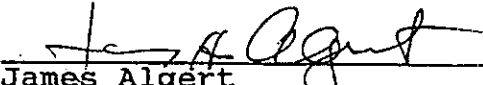
4. Licensee hereby agrees to hold harmless, defend and indemnify Licensor, Licensor's agents, successors, heirs, and assigns against all liability, claims, demands, causes of action and losses of any kind whatsoever, including any attorney's fees and litigation expenses, arising out of or in any matter directly or indirectly connected with the use of Licensor's property by Licensee, Licensee's employees, agents, guests and invitees,

during the term of this agreement. This hold harmless Agreement shall survive the termination of this Agreement, whether due to expiration or earlier termination due to Seller's default or any other reason.

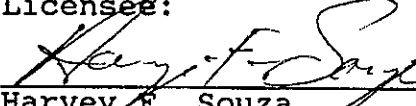
6. The revocable license granted to Licensee may not be transferred, conveyed, sublet or assigned in any way whatsoever. Any such transfer or assignment shall result in the immediate cancellation of this agreement.

7. In any litigation arising out of this agreement, the prevailing party shall be entitled to attorney's fees and costs.

Licensors:


James Algert

Licensee:


Harvey F. Souza

First Amendment to Lease

This Amendment, dated for reference purposes as of June 28, 2010, is executed by (1) Larry D. Wells and Judith May (collectively, "**Landlord**") and (2) Harvey F. Souza ("**Tenant**"). This Amendment is executed with reference to the following facts:

A. On or about November 1, 2004, Landlord and Tenant executed that certain Parking Lot Lease ("**the Lease**") pertaining to the land ("**the Premises**") situated in the city of Chula Vista, San Diego County, California, consisting of the westerly 150 feet of San Diego County Tax Assessor's Parcel No. 567-200-36-00.

B. Landlord and Tenant desire to extend the term of the Lease as if Tenant had exercised the option contained in Paragraph 2.2 of the Lease

In consideration of the above recitals and the mutual agreements stated below, the parties agree:

1. Term Extension. The term of the Lease shall be extended for a period of five years commencing on December 15, 2009, and expiring December 14, 2014.

2. Rent. Effective December 15, 2010, the monthly rent shall be \$1,725.00. Landlord and Tenant acknowledge that during the period December 1, 2009, through the date of this Amendment, Tenant has been paying rent at the prior rate of \$1,500.00/month. On July 1, 2010, Tenant shall pay Landlord (1) \$1,725.00, which shall be attributable to the monthly rent for July 2010 and (2) \$1,462.50, which is the additional rent that should have been paid by Tenant for the period December 15, 2009, through June 30, 2010 (i.e., six months x \$225.00/month, January-June 2010, plus \$112.50 for prorated rent December 2009).

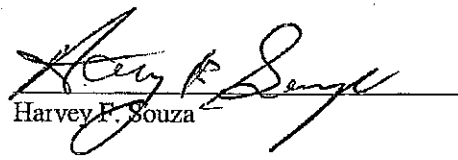
3. Tenant's Representations In connection with the execution of this Amendment, Tenant hereby represents to Landlord:

3.1 Landlord is not in default and has not been in default in the performance of Landlord's obligations under the Lease, and no condition exists that with the passage of time or delivery of notice or both would constitute a default by Landlord under the terms of the Lease.

3.2 Tenant has no right, claim, or action for recovery against Landlord.

4. Confirmation Except as modified by this Amendment, the Lease is hereby ratified and confirmed; however, Tenant does not have any further right or option to extend the term of the Lease.


Larry D. Wells


Harvey F. Souza

Judith May


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From: 2000 To: 2010


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Data extracted on: June 28, 2010 (1:00:43 PM)

Consumer Price Index - All Urban Consumers

Series Id: CUUSA421SA0, CUURA421SA0

Not Seasonally Adjusted

Area: Los Angeles-Riverside-Orange County, CA

Item: All items

Base Period: 1982-84=100

 Download: [Excel](#)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2000	167.9	169.3	170.7	170.6	171.1	171.0	171.7	172.2	173.3	173.8	173.5	173.5	171.6	170.1	173.0
2001	174.2	175.4	176.2	176.6	177.5	178.9	178.3	178.4	178.8	178.3	178.1	177.1	177.3	176.5	178.2
2002	178.9	180.1	181.1	182.2	182.6	181.9	182.2	183.0	183.4	183.7	184.0	183.7	182.2	181.1	183.3
2003	185.2	186.5	188.2	187.6	186.4	186.3	186.3	186.9	188.2	187.8	187.1	187.0	187.0	186.7	187.2
2004	188.5	190.1	191.5	191.9	193.3	193.7	193.4	193.1	194.5	196.3	196.9	195.2	193.2	191.5	194.9
2005	195.4	197.4	199.2	201.1	201.5	200.7	201.4	203.1	205.8	206.9	205.6	203.9	201.8	199.2	204.5
2006	206.0	207.5	208.5	210.5	212.4	211.1	211.4	211.9	212.9	211.4	211.1	210.6	210.4	209.3	211.6
2007	212.584	214.760	216.500	217.845	218.596	217.273	217.454	217.330	217.697	218.696	219.943	219.373	217.338	216.260	218.416
2008	220.918	221.431	223.606	224.625	226.651	229.033	229.886	228.484	227.449	226.159	222.229	219.620	225.008	224.377	225.638
2009	220.719	221.439	221.376	221.693	222.522	223.906	224.010	224.507	225.226	225.264	224.317	223.643	223.219	221.943	224.495
2010	224.610	224.620	225.483	225.916	226.438										

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Parking Lot Lease

This Lease, November 1, 2004, is between Larry D. Wells and Judith May (collectively, "Landlord") and Harvey F. Souza ("Tenant"). This Lease is executed with reference to the following facts:

A. Michael Blumenfeld ("**Blumenfeld**") is the successor to Gerald Bodge and Karen Bodge (collectively, "**Bodge**") as lessees under that certain Building Lease ("**the Blumenfeld Lease**") dated February 1, 2000.

B. Pursuant to the Blumenfeld Lease, Blumenfeld leases from Landlord certain real property, including the Premises (defined below) that Landlord intends to lease to Tenant pursuant to the terms of this Lease.

C. Under Article 19 of the Blumenfeld Lease, Landlord has (1) the right to terminate the Blumenfeld Lease as to the Premises and (2) reserved certain easement rights over the portion of the property described in the Blumenfeld Lease that will continue to be occupied by Blumenfeld ("**the Blumenfeld Premises**").

D. Promptly following execution of this Lease, Landlord intends to exercise the option to terminate the Blumenfeld Lease as to the Premises, and following such partial termination of the Blumenfeld Lease pursuant to exercise of such option, (1) Tenant will commence to occupy the Premises pursuant to this Lease, (2) Blumenfeld will continue to occupy the Blumenfeld Premises, and (3) Tenant will have the benefit of the reserved easement rights described in Article 19 of the Blumenfeld Lease, subject to the limitations contained in such Article 19, a copy of which is attached to this Lease as Exhibit 2.

The parties agree as follows:

1. **Premises.** Landlord leases to Tenant and Tenant hires from Landlord on the terms, covenants and conditions hereinafter set forth, the land ("**the Premises**"), situated in the city of Chula Vista, San Diego County, California, consisting of the westerly 150 feet of San Diego County Tax Assessor's Parcel No 567-200-36-00, and is generally a rectangular shape having dimensions of approximately 165 feet by 150 feet. A diagram depicting the general location of the Premises is attached hereto as Exhibit 1. The Premises is also described as Parcel I in Article 19 of the Blumenfeld Lease.

2. **Term.**

2.1 **Term.** The term of this Lease shall be for a period commencing on the Commencement Date (defined below) and ending on the expiration of the fifth Lease Year (defined below) unless sooner terminated as hereinafter provided. As used herein, "**the Commencement Date**" shall mean the date on which Landlord delivers to Tenant possession of the Premises following Landlord's exercise of the Landlord's option to partially terminate the Blumenfeld Lease as to the Premises. If the Commencement Date has not occurred prior to January 31, 2005, then this Lease shall terminate and Landlord and Tenant shall be relieved of all obligations under this Lease.



2.2 Option to Renew. Provided no breach exists at the time of exercise, Tenant shall have one option to renew this Lease for a further term of five years. The option period shall commence on the expiration date of the original term. The option to extend the term of this Lease may be exercised only by delivery to Landlord of written notice of such exercise at least six months prior to the expiration date of the original term. Tenant's exercise of the option shall be irrevocable. Tenant's occupancy during the option period shall be subject to all terms and conditions of this Lease, except that minimum rent under Section 3.1 shall be determined as follows:

2.2.1 The minimum rent specified in Section 3.1 (i.e., \$1,500.00/month) will be multiplied by a fraction, the numerator of which is the Index (defined below) figure for the last period for which the index is published and that ends before the commencement of the option period, and the denominator of which is the Index figure for the same calendar period immediately preceding the Commencement Date. "The Index" is that which is published by the United States Department of Labor, Bureau of Labor Statistics, in the Consumer Price Index for all urban Consumers for the Los Angeles area, all items, 1982-84 base. The minimum rent, as determined above, will be the minimum rent to be paid in accordance with the provisions of Section 3.1 for the option period. If the Bureau of Labor Statistics discontinues the publication of the Index, publishes the Index less frequently, or alters the Index in some other manner, then Landlord will adopt a substitute index or substitute procedure that reasonably reflects and monitors changes in consumer prices.

2.2.2 Notwithstanding anything in the preceding section to the contrary, the minimum increase of minimum rent over the amount paid during the original term shall be 15 percent.

2.3 Holding Over. If Tenant, with Landlord's consent, holds possession of the Premises after the term of this Lease, Tenant shall become, at Landlord's option, a tenant from month to month upon the terms herein specified for the period immediately prior to such holding over (but any remaining option granted under this Lease to Tenant will be terminated) and shall continue in such status until the tenancy shall be terminated by either party upon not less than 30 days' prior written notice of intent to terminate the tenancy.

3. Rent

3.1 Minimum Rent. Commencing on the Commencement Date and continuing on the first day of each calendar month through the end of the fifth Lease Year, Tenant shall pay to Landlord minimum rent for the Premises in the amount of \$1,500.00/mo., in advance, without deduction, offset, notice or demand. If the obligation to pay minimum rent hereunder commences on other than the first day of a calendar month or if the term of this Lease terminates on other than the last day of a calendar month, the minimum rent for such first and/or last month of the term of this Lease, as the case may be, shall be prorated in the proportion that the number of days this Lease is in effect during such period bears to 30.

3.2 "Lease Year" Defined. For the purposes of this Lease, the term "Lease Year" will mean each 12-month period during the term of this Lease, beginning on the



Commencement Date, if the Commencement Date is the first day of a calendar month, but otherwise on the first day of the calendar month immediately next following the calendar month in which the Commencement Date occurs and ending on the last day of the twelfth calendar month thereafter. For example, if the Commencement Date falls on December 15 of a given year, each Lease Year will begin on January 1 and end on the following December 31. The term "Lease Year" will also mean any period of time that is not a 12-month period during the term of this Lease that begins at the end of a Lease Year and ends on the last day of the term of this Lease. If the Commencement Date occurs on a day other than the first day of a calendar month, the first Lease year will also include any partial calendar month in which the Commencement Date occurs.

3.3 Late Charge Tenant shall pay to Landlord a late charge in an amount equal to six percent of any installment of rent or other charge not paid in full on or before the tenth day of the month in which such rent or other charge is due. Tenant acknowledges that late payment by Tenant to Landlord will cause Landlord to incur costs not contemplated by this Lease, including, without limitation, processing and accounting charges and late charges that may be imposed on Landlord by the terms of any note secured by an encumbrance covering the Premises. Tenant further acknowledges that it is extremely difficult and impractical to fix the exact amount of such costs and that the late charge set forth in this section represents a fair and reasonable estimate thereof. Acceptance of any late charge by Landlord shall not constitute a waiver of Tenant's default with respect to overdue payment, nor shall such acceptance prevent Landlord from exercising any other rights and remedies available to it.

3.4 Allocation of Payment If Tenant shall tender to Landlord a payment that is less than the full amount then owed by Tenant under this Lease, then Landlord may apply the payment to the following items in the following order: (i) attorneys' fees and costs incurred by Landlord for which Tenant is required to reimburse Landlord, (ii) late charges and interest then due, (iii) minimum rent then due, and (iv) other costs and charges then due

4. Personal Property Taxes Tenant shall be responsible for and shall pay prior to delinquency all taxes and assessments levied against or by reason of all alterations and additions and all other items installed or paid for by Tenant under this Lease and the personal property, trade fixtures and all of the property placed by Tenant in or about the Premises. Upon demand by Landlord, Tenant shall furnish Landlord with satisfactory evidence of payment thereof.

5. Operating Expenses; Real Property Taxes

5.1 Payment of Operating Expenses/Real Property Taxes From and after the Commencement Date, Tenant shall pay all Operating Expenses and Real Property Taxes.

5.2 Definition of Operating Expenses The term "Operating Expenses" shall mean the total costs and expenses for management, operation and maintenance of the Premises. Without limiting the generality of the foregoing, Operating Expenses shall include costs for (i) maintenance services, (ii) utilities, (iii) supplies, equipment, utilities and tools used in operation and maintenance, (iv) gardening, landscaping, planting, replanting and replacing flowers and shrubbery, (v) cleaning, striping and resurfacing of parking areas, (vi) commercial general liability



insurance, (vii) parking operation systems and automobile and pedestrian traffic regulating systems, and (viii) sanitary control, extermination, removal of rubbish, garbage and other refuse.

5.3 Definition of Real Property Tax. As used herein, the term "Real Property Tax" shall include any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rent tax, improvement bond or bonds, levy or tax (other than inheritance, personal income or estate taxes) imposed on the Premises by any authority having the direct or indirect power to tax, including any city, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof, as against any legal or equitable interest of Landlord in the Premises, as against Landlord's right to rent or other income therefrom, and as against Landlord's business of leasing the Premises. The term "Real Property Tax" shall also include any tax, fee, levy assessment or charge (i) in substitution of, partially or totally, any tax, fee, levy, assessment or charge hereinabove included within the definition of Real Property Tax, (ii) the nature of which was hereinbefore included within the definition of Real Property Tax, (iii) that is imposed for a service or right not charged prior to June 1, 1978, or, if previously charged, has been increased since June 1, 1978, (iv) that is imposed as a result of a transfer, either partial or total, of Landlord's interest in the Premises or added to a tax or charge hereinbefore included within the definition of Real Property Tax by reason of such transfer, or (v) that is imposed by reason of this transaction, any modifications or changes hereto, or any transfers hereof. Real Property Taxes shall not include Landlord's income taxes or inheritance taxes. If the San Diego County Assessor has not segregated the Premises and the Blumenfeld Premises as separate tax parcels, Tenant shall pay Real Property Taxes in an amount equal to the sum of (1) the Real Property Taxes assessed against the value of improvements installed in and upon the Premises and (2) the Real Property Taxes assessed against the land value of the Premises and the Blumenfeld Premises multiplied by a fraction, the numerator of which is the area of the Premises and the denominator of which is the combined area of the Premises and the Blumenfeld Premises.

6. Utilities Interruption. With the exception of participating in grants of reasonable easements to utility companies, Landlord shall have no obligation relating to furnishing utility services to the Premises. No abatement of rent or other charges shall be required to be paid hereunder, and Landlord shall not be liable in damages or otherwise for interruption or failure of any service or utility furnished to or used in the Premises because of accident, making of repairs, alterations or improvement, severe weather, difficulty or inability in obtaining services or supplies, labor difficulties or any other cause.

7. Alterations.

7.1 Right to Make Alterations. Tenant shall not make any alterations, additions, utility, installations, sign installations, or improvements to the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the preceding sentence, Tenant may, without Landlord's prior written consent, install on the Premises (1) asphalt paving for parking areas and drive aisles, (2) perimeter fencing, and (3) parking lot lighting fixtures and appurtenant switches, wires, and conduit. The improvements described in the preceding sentence are collectively referred to as "Tenant's Parking Lot Work." Tenant's Parking Lot Work and all other alterations, additions and improvements that Tenant may accomplish shall be completed with due diligence in a first-class workmanlike manner and in compliance with (1) the



plans and specifications and all applicable laws, ordinances, rules and regulations and (2) the provisions of Article 19 of the Blumenfeld Lease, including Section 19.3.5 that requires use of the easements reserved in Article 19 of the Blumenfeld Lease to be done in a manner that does not materially interfere with Blumenfeld's quiet enjoyment of the Blumenfeld Premises.

7.2 Conditions to Making Improvements. In making any alterations or improvements, including Tenant's Parking Lot Work, Tenant shall comply with all of the following:

7.2.1 Bond. If the estimated cost of the proposed alteration or improvement exceeds \$10,000.00, Landlord may require Tenant to provide to Landlord, at Tenant's sole cost and expense, a lien and completion bond in an amount equal to 150 percent of the estimated cost of such alterations or improvements to insure Landlord against any liability for mechanic's and materialmen's liens and to insure completion of the work.

7.2.2 Permits. Tenant shall acquire, at Tenant's sole cost and expense, all necessary building and other permits from appropriate governmental agencies and furnish copies thereof to Landlord prior to the commencement of the work. Tenant shall comply with all conditions of all such permits in a prompt and expeditious manner.

7.2.3 Notice. Tenant shall give Landlord no fewer than 10 days' notice prior to the commencement of any work in the Premises, and Landlord shall have the right to post notices of nonresponsibility in or on the Premises as provided by law.

7.2.4 Liens. Tenant shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Tenant at or for use in the Premises, which claims are or may be secured by any mechanic's or materialmen's liens against the Premises or any interest therein. If Tenant shall, in good faith, contest the validity of any such lien, claim or demand, then Tenant shall, at its sole expense, defend itself and Landlord against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Landlord or the Premises, upon the condition that if Landlord shall require, Tenant shall furnish to Landlord a surety bond satisfactory to Landlord in an amount equal to such contested lien claim or demand indemnifying Landlord against liability for the same and holding the Premises free from the effect of such lien or claim. In addition, Landlord may require Tenant to pay Landlord's attorney's fees and costs in participating in such action if Landlord shall decide it is to its best interest to do so.

7.2.5 Title to Alterations. Upon termination of this Lease, all alterations and improvements will become part of the Premises and Landlord's property.

7.3 Landlord's Parking Lot Allowance. Upon (1) completion of Tenant's Parking Lot Work and (2) delivery to Landlord of evidence that Tenant has paid, in full, the cost of Tenant's Parking Lot Work, Tenant shall receive credit against minimum rent next coming due in an amount equal to the lesser of (1) \$5,000.00 or (2) 50 percent of the total cost of Tenant's Parking Lot Work. The credit referred to in the preceding sentence shall be applied against minimum rent in the maximum amount of \$500.00/month (e.g., if Tenant were entitled to \$5,000.00 total credit, then Tenant would receive a discount of \$500.00/month for 10 months commencing the first full calendar



month after Tenant has completed Tenant's Parking Lot Work and delivered to Landlord evidence of full payment of the cost of Tenant's Parking Lot Work).

8. Maintenance and Repairs.

8.1 Tenant's Obligation for Maintenance.

8.1.1 Good Order, Condition and Repair. By accepting possession of the Premises, Tenant acknowledges that the Premises is in good and sanitary order, condition and repair. During the term of this Lease, Tenant, at its sole cost and expense, shall keep and maintain the Premises in good and sanitary order, condition and repair.

8.1.2 Landlord's Remedy. If after notice from Landlord, Tenant fails to make or perform promptly any repairs or maintenance that are Tenant's obligation hereunder, Landlord shall have the right, but shall not be required, to enter the Premises and make the repairs or perform the maintenance necessary to restore the Premises to good and sanitary order, condition, and repair. Immediately on demand from Landlord, the cost of such repairs shall be due and payable by Tenant to Landlord.

8.1.3 Condition upon Surrender. At the expiration or earlier termination of this Lease, Tenant shall surrender the Premises, including any additions, alterations and improvements thereto, in good condition, ordinary wear and tear excepted.

8.2 No Maintenance or Security Responsibility for Landlord. The parties intend that Landlord shall have no obligation, in any manner whatsoever, to repair, maintain, or secure the Premises or the equipment therein, all of which obligations are intended to be those of Tenant. Tenant waives the benefit of any statute now or hereafter in effect that would otherwise afford Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition and repair, including, but not limited to, California Civil Code sections 1932, 1933, 1941 and 1942.

9. Use of Premises.

9.1 Permitted Use. Subject to the conditions below, Tenant may use the Premises for vehicle parking for persons employed at Tenant's business known as Village Club Card Room located at 429 Broadway, Chula Vista, California 91910.

9.2 Compliance with Laws. Tenant shall not use the Premises or permit the Premises to be used in whole or in part for any purpose or use that is in violation of any of the laws, ordinances, regulations or rules of any governmental agency or public authority. Tenant shall (i) use the Premises in strict accordance with all applicable ordinances, rules, laws and regulations and comply with all requirements of all governmental authorities now in force or which may hereafter be in force pertaining to the use of the Premises by Tenant, including, without limitation, California Hazardous Waste Control Act (Health & Safety Code sections 25100, et seq.), California Underground Storage of Hazardous Substances Act (Health & Safety Code sections 25280, et seq.), California Hazardous Substances Account Act (Health & Safety Code sections 25300, et seq.),



California Porter-Cologne Water Quality Control Act (Water Code sections 13000, et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. sections 9601, et seq.), and Resource Conservation and Recovery Act (42 U.S.C. 6901, et seq.), and other statutes and regulations applicable to noise, air pollution, and Americans with Disabilities Act and (ii) make such structural or nonstructural alterations and additions thereto as may be required from time to time by such laws, ordinances, rules, regulations and requirements of governmental authorities or insurance on the Premises. Landlord makes no representations or warranties whatsoever about whether Tenant's proposed use of the Premises complies with applicable land use regulations. Tenant represents that Tenant has determined to Tenant's satisfaction that its proposed use of the Premises, as set forth in Section 9.1, is a permitted use under all applicable land use regulations and restrictions and that it shall be Tenant's sole responsibility, at its sole cost, to procure all licenses and permits required for Tenant's lawful use of the Premises.

9.3 Protective Covenants. Tenant will (i) comply with any covenants, conditions and restrictions affecting the Property, (ii) immediately give Landlord written notice of receipt by Tenant of any notice of violation under any protective covenants, and (iii) indemnify and hold harmless Landlord from any liability or costs (including attorney's fees) indirectly or directly arising out of Tenant's violation of any of the protective covenants.

10. Insurance and Indemnity.

10.1 Liability Insurance. Tenant shall procure and maintain in full force and effect during the term of this Lease commercial general liability and property damage insurance to protect against any liability to the public or to any invitee of Tenant or Landlord arising out of or related to the use of or resulting from any accident occurring in, upon, or about the Premises, with limits of liability of not less than (i) \$1,000,000.00 for injury to or death of one person, (ii) \$2,000,000.00 for personal injury or death, per occurrence, and (iii) \$50,000.00 for property damage or a combined single limit of public liability and property damage insurance of not less than \$2,000,000.00. Such insurance shall name Landlord as an additional insured thereunder. The policy shall insure performance by Tenant of the indemnity provisions of Section 10.5. The limits of said insurance shall not, however, limit the liability of Tenant hereunder. Not more frequently than every five years, if, in the opinion of Landlord's lender or of an insurance broker retained by Landlord, the amount of public liability insurance coverage at that time is not adequate, Tenant shall increase the insurance coverage as required by either Landlord's lender or Landlord's insurance broker within 60 days after receipt of Landlord's written request that Tenant do so.

10.2 Casualty Insurance. To the extent Tenant constructs insurable improvements on the Premises, Tenant shall procure and maintain in full force and effect during the term of this Lease a policy of fire and casualty insurance. Such insurance shall name Tenant as the insured and Landlord as an additional loss payee and be in a face amount of not less than the full insurable value (based upon replacement cost) of all insurable improvements on the Premises.

10.3 Quality of Policies; Cancellation; Certificates. All policies of insurance required hereunder shall be issued by companies holding a General Policyholders Rating of at least A-, as set forth in the most current issue of *Best's Insurance Guide*. Tenant shall deliver to Landlord a certificate of insurance showing that said policy is in effect. If Tenant fails to acquire, maintain, or



renew any insurance required to be maintained by Tenant under this Article 10 or to pay the premium therefor, then Landlord, at its option and in addition to its other remedies, but without obligation to do so, may procure such insurance, and any sums expended by Landlord to procure any such insurance shall be repaid upon demand with interest at the rate of 10 percent per annum. Tenant shall obtain written undertakings from each insurer under policies required to be maintained by it and notify in writing all insureds thereunder at least 30 days prior to cancellation, amendment, or revision of coverage.

10.4 Waiver of Subrogation. To the extent permitted by law and without affecting the coverage provided by insurance required to be maintained hereunder, Landlord and Tenant each waive any right to recover against the other (i) damage for injury to or death of persons, (ii) damage to property, (iii) damage to the Premises or any part thereof, or (iv) claims arising by reason of any of the foregoing, but only to the extent that any of the foregoing damages and claims under subparts (i) through (iv) hereof are covered, and only to the extent of such coverage, by insurance actually carried or required to be carried hereunder by either Landlord or Tenant. This provision is intended to waive fully, and for the benefit of each party, any rights and claims that might give rise to a right of subrogation in any insurance carrier.

10.5 Tenant's Indemnification. Subject to Section 10.4 above, Tenant shall indemnify, defend and hold harmless Landlord, its agents, employees, contractors, and lenders from any and all liability for injury to or death of any person, loss of or damage to the property of any person, and all actions, claims, demands, costs, including, without limitation, reasonable attorney's fees, damages or expenses of any kind arising therefrom that may be brought or made against Landlord or that Landlord may pay or incur by reason of (1) the use, occupancy and enjoyment of the Premises by Tenant or any invitees, sublessees, licensees, assignees, employees, agents or contractors of or holding under Tenant from any cause whatsoever arising during the term of this Lease, other than the willful misconduct or omission by Landlord, its agents, or employees, or (2) any activity by Tenant or Tenant's invitees, sublessees, licensees, assignees, employees, agents, or contractors in, on, over, under, or across the Blumenfeld Premises. Landlord, its partners, agents, employees and contractors shall not be liable for, and Tenant hereby waives all claims against such persons for, damages to goods, wares and merchandise in or upon the Premises or for injuries to Tenant, its agents, or third persons in or upon the Premises from any cause whatsoever other than willful misconduct or omission by Landlord, its agents or employees.

11. Sublease And Assignment.

11.1 Assignment and Sublease of Premises. Tenant shall not have the right to assign, transfer, sublet, or otherwise transfer or encumber all or part of Tenant's interest in this Lease or in the Premises (hereinafter collectively referred to as "a Transfer"), except in compliance with the conditions described below.

11.2 Conditions to Transfer. All Transfers shall be subject to the following conditions:



11.2.1 Identity of Transferee. Tenant shall deliver to Landlord the name, address, and telephone number of the proposed assignee, sublessee, transferee, or encumbrancer (collectively, "Transferee").

11.2.2 Transfer Document. Tenant shall deliver to Landlord a copy of the assignment, sublease, leasehold deed of trust, or other document evidencing the Transfer.

11.2.3 Assumption of Lease. In the event of a complete assignment of Landlord's interest under this Lease, the proposed assignee shall execute a written agreement pursuant to which the assignee shall agree to perform faithfully and be bound by all of the terms, covenants, conditions, provisions and agreements of this Lease.

11.2.4 Continuing Liability. Except as provided below, a Transfer shall not in any way be construed to relieve Tenant or any guarantor of Tenant's obligation from any liability, whether past, present, or future, under this Lease or to release Tenant from any liability under this Lease because of Landlord's failure to give notice of default or in respect of any of the terms, covenants, conditions, provisions or agreements of this Lease.

11.2.5 Landlord's Consent to Assignment. All Transfers shall be subject to Landlord's prior written consent, which consent shall not be unreasonably withheld. In connection with a request for Landlord's consent to a Transfer, Tenant shall deliver to Landlord (1) a copy of the proposed document that will evidence the Transfer, (2) a current statement of assets and liabilities of the proposed transferee, (3) two most recent state and federal income tax returns for the proposed transferee, and (4) if the proposed transferee is other than a natural person, a statement of assets and liabilities and the two most recent state and federal income tax returns for a natural person that is a principal of the proposed transferee that will guaranty the transferee's obligations under this Lease.

12. Right of Entry and Quiet Enjoyment. Landlord covenants that Tenant, upon paying the rent and performing its obligations hereunder and subject to all the terms and conditions of this Lease, shall peacefully and quietly have, hold, and enjoy the Premises throughout the term of this Lease or until this Lease is earlier terminated as provided by this Lease. Landlord represents that no mortgage, deed of trust, or other lien encumbering the Premises secures any obligation owed by Landlord, the default in performance of which could result in termination of this Lease.

13. Taking

13.1 Landlord's Rights. If during the term of this Lease the Premises or any substantial part thereof or access thereto (i) is taken by eminent domain, by reason of any public improvement or condemnation proceeding, or by exercise in any manner of the right of eminent domain, including any transfer in avoidance of an exercise of the power of eminent domain, or (ii) receives irreparable damage by reason of anything lawfully done under color of public or other authority, this Lease shall terminate as to the entire Premises at Landlord's election by written notice given within 90 days after the damage or taking has occurred. As used herein, the term "taking" shall mean a physical taking of possession of a portion of the Premises (as opposed to a mere transfer of legal title that does not disturb Tenant in possession of the Premises).



13.2 Tenant's Rights. If any portion of the Premises or access thereto is so taken by condemnation, Tenant may elect to terminate this Lease if the portion of the Premises taken is of such extent and nature as substantially and permanently to handicap, impede, or impair Tenant's use of the balance of the Premises or as to make the operation of the Premises unprofitable for Tenant. Tenant must exercise its right to terminate by giving notice to Landlord within 90 days after the taking has progressed to the extent that the taking has commenced substantially and permanently to handicap, impede or impair Tenant's use of the balance of the Premises or has made the operation of the Premises unprofitable for Tenant. If Tenant elects to terminate this Lease, Tenant shall also notify Landlord of the date of termination, which date shall not be earlier than 30 days or later than 180 days after Tenant has notified Landlord of its election to terminate. Each party waives the provisions of Code of Civil Procedure section 1265.130 allowing either party to petition the superior court to terminate this Lease in the event of a partial condemnation of the Premises.

13.3 Lease to Remain in Effect. If a taking occurs and either (1) the taking is not sufficiently substantial to provide to Landlord or Tenant the right to terminate or (2) the taking allows Landlord or Tenant the right to terminate but they both elect not to do so, then the following shall apply:

13.3.1 Tenant shall repair and restore the Premises as nearly as reasonably possible to the condition existing before the damage or taking.

13.3.2 This Lease shall continue in full force and effect, except that the minimum rent payable under Section 3 of this Lease shall be reduced to the fair market rental value for the Premises determined as of the date of substantial completion of the repairs necessary to restore the Premises. The fair rental market value of the Premises shall be determined as if the Premises were not encumbered by this Lease. If the parties are unable to agree upon the fair market rental value for the Premises, the parties shall submit the dispute for such resolution to the American Arbitration Association in San Diego, California, pursuant to the commercial rules. During the pendency of the arbitration, Tenant shall continue to pay rent at the rate of 90 percent of the rent required to be paid under this Lease if no taking had occurred.

13.4 Reservation of Compensation. Landlord reserves, and Tenant waives and assigns to Landlord, all rights to any award or compensation for damage to the Premises and the leasehold estate created hereby occurring by reason of any taking in any condemnation or eminent domain proceeding or anything lawfully done by public authority, provided that Tenant is entitled to any and all compensation payable as a consequence of damage or destruction to fixtures, equipment, alterations, and other property of Tenant installed and paid for by Tenant. Tenant will deliver such further assignments of the foregoing as Landlord may from time to time request.

13.5 Restoration of Fixtures. If this Lease remains in force following a taking, Tenant, at its sole expense, shall promptly repair and replace all fixtures, equipment and other property of Tenant located at the Premises and all additions, alterations, improvements, and all other items installed or paid for by Tenant under this Lease that were damaged or taken so as to restore the same to a condition substantially equal to that which existed immediately prior to the damage or taking.



14. Default.

14.1 Events of Default. The occurrence of any of the following shall constitute an event of default on the part of Tenant:

14.1.1 Nonpayment. Failure to pay any amount payable to Landlord hereunder when due, if such failure continues for three days after Tenant's receipt of written notice of such failure;

14.1.2 Other Obligations. Failure to perform any obligation, agreement, or covenant under this Lease other than the payment obligations specified in subsection 14.1.1, such failure continuing for 30 days after written notice of such failure. If curing such default is not possible within 30 days, Tenant shall commence to cure the default within said 30-day period and proceed diligently to complete the cure of the default. The written notices described in this Section 14.1.2 and in Section 14 1.1 shall be served in accordance with California Code of Civil Procedure section 1162 and shall be the same notice and in lieu of any other required by California Code of Civil Procedure section 1161.

14.2 Remedies. In the event of any such event of default or other breach by Tenant, Landlord may at any time thereafter, with or without notice of demand and without limiting Landlord in the exercise of any right or remedy that Landlord may have by reason of such default or breach, do any of the following:

14.2.1 Termination; Damages. Landlord may terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event, Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including, but not limited to, (i) the cost of recovering possession of the Premises, (ii) expenses of re-letting, including necessary renovation and alteration of the Premises, reasonable attorney's fees, and any real estate commission actually paid, (iii) the worth at the time of award by the court of the unpaid rent that has been earned at the time of termination, (iv) the worth at the time of award by the court of the amount by which the unpaid rent that would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided, (v) the worth at the time of award of the amount by which the unpaid rent for the balance of the term of this Lease after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided, and (vi) any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under this Lease or that in the ordinary course of things would be likely to result therefrom. The "worth at the time of award" of the amounts referred to in clauses (iii) and (iv) will be computed by allowing interest at the rate of 10 percent per annum commencing on the first day a breach occurs. The "worth at the time of award" of the amount referred to in clause (v) is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1 percent.

14.2.2 Other Remedies. Landlord may pursue any other legal or equitable rights or remedies Landlord may have for Tenant's breach of this Lease.



15. Attornment and Sale.

15.1 Attornment. Upon any default by Landlord in the performance of its obligations under any mortgage, deed of trust, ground lease, leaseback lease, or assignment, Tenant (and any sublessee) shall attorn to the mortgagee, ground lessor, lease-back lessor or assignee thereunder upon demand and shall execute and deliver any instrument or instruments confirming the attornment herein provided for.

15.2 Sale of Landlord's Interest. Upon sale, transfer or assignment of Landlord's entire interest in the Premises, Landlord shall automatically be relieved of its obligations hereunder with respect to liabilities accruing from and after the date of such sale, transfer, or assignment.

15.3 Estoppel Certificates. Either party shall at any time and from time to time within 20 days after written request of the other party, execute, acknowledge and deliver to the other party a certificate in writing stating (i) that this Lease is unmodified and in full force and effect, or, if this Lease has been modified, that this Lease is in full force and effect as modified and stating the date and the nature of each modification, (ii) the date to which rental and all other sums payable hereunder have been paid, (iii) that the other party is not in default in the performance of any of its obligations under this Lease, or, if the other party has defaulted, the nature of such default, and (iv) such other matters as may reasonably be requested by Landlord or Tenant. Any such certificate provided under this section may be relied upon by any lender, mortgagee, assignee, and successors in interest to Landlord or Tenant, by any prospective purchaser, by any purchaser on foreclosure or sale or upon any grant of a deed in lieu of foreclosure of any mortgage or deed of trust.

15.4 Subordination of Future Liens. Tenant shall, upon Landlord's request, subordinate this Lease in the future to any first lien placed by Landlord upon the Premises, provided that the lienholder jointly executes with Landlord and Tenant a commercially reasonable subordination, nondisturbance and attornment agreement.

16. Hazardous Materials.

16.1 Landlord's Warranty and Indemnity. Landlord represents and warrants that, to the best of Landlord's knowledge, (1) the handling, transportation, storage, treatment, use and disposal of Hazardous Materials that have occurred on the Premises prior to the date of this Lease have been in compliance with applicable federal, state and local laws, regulations and ordinances and (2) no leak, spill, release, discharge, emission or disposal of Hazardous Materials has occurred on the Premises prior to the date of this Lease. Landlord shall defend, indemnify, and hold harmless Tenant and its officers, directors, agents, partners, shareholders, and successors from any and all claims, damages, fines and liabilities arising out of or relating to the presence or release of Hazardous Materials on the Premises caused by (1) any cause whatsoever if such release occurred prior to the date of this Lease and/or (2) Landlord and/or Landlord's agents, employees, servants or contractors if such release occurs or has occurred after the date of this Lease.

16.2 Tenant's Warranty and Indemnity. Tenant shall handle, store, transport and dispose of Hazardous Materials in and about the Premises in strict compliance with all applicable federal, state, and local laws, regulations and ordinances. Any Hazardous Materials that are or have



been brought onto the Premises by or at the direction of Tenant and/or arise out of the occupancy and use of the Premises by Tenant shall be the responsibility of Tenant, and Tenant shall be liable and responsible for all costs, fees, and charges related thereto, including, but not limited to, (1) removal from the Premises of any such Hazardous Materials, (2) damages to persons and property (including the Premises and all improvements located thereon), (3) fines and charges imposed by any governmental agency, and (4) any other liability imposed by law. Tenant shall defend, indemnify and hold harmless Landlord and Landlord's officers, directors, agents, partners, shareholders and successors from any and all claims, damages, fines and liabilities arising out of or relating to any breach by Tenant of Tenant's obligations under this paragraph.

16.3 Definition. As used herein, the term "Hazardous Materials" shall include (1) "hazardous substance," as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. sections 9601, et seq.), as amended, or any successor statute, (2) "hazardous material," as defined in the Hazardous Materials Transportation Act (49 U.S.C. sections 1801, et seq.), as amended, or any successor statute, (3) "hazardous waste," "solid waste," "sludge," "used oil," "recycled oil," "lubricating oil," and "re-refined oil," as defined in the Resource Conservation and Recovery Act of 1976 (42 U.S.C. sections 6901, et seq.), as amended, or any successor statute, (4) "hazardous substance" as defined in Clean Water Act (33 U.S.C. sections 1251, et seq.), as amended, or any successor statute, and (5) any substances, materials or wastes listed in (i) the United States Department of Transportation Hazardous Materials Table (49 C.F.R. section 172.101), as amended, (ii) the Environmental Protection Agency List (40 C.F.R. Part 302), as amended, (iii) the Administrative Code, as amended, or (iv) any other list published by any federal or state governmental entity now or in the future.

16.4 Survival. The provisions of this Section 16 of this Lease shall survive the expiration or earlier termination of this Lease

17. Miscellaneous.

17.1 Notices. All notices, consents, waivers, payments, or other communications that this Lease requires or permits either party to give to the other shall be in writing and shall be deemed given when delivered personally or forwarded by registered or certified mail, postage prepaid, or overnight courier (e.g., FedEx) to the parties at their respective addresses as follows:

To Landlord: Larry D. Wells
620 Glover Place
Chula Vista, California 92010

To Tenant: Harvey F. Souza
429 Broadway
Chula Vista, California 91910

or to such other address as may be contained in a notice from either party to the other given pursuant to this section. Rent payments and other sums required by this Lease to be paid by Tenant shall be delivered to Landlord at Landlord's address provided in this section or to such other address as Landlord may from time to time specify in writing to Tenant



17.2 Successors and Assigns. The obligations of this Lease shall run with the land, and this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that the original Landlord named herein and each successive Landlord under this Lease shall be liable only for obligations accruing during the period of its ownership of the leasehold estate created by this Lease, said liability terminating upon termination of such ownership and passing to the successor lessor.

17.3 No Waiver. The failure of Landlord to seek redress for violation or to insist upon the strict performance of any covenant or condition of this Lease shall not be deemed a waiver of such violation or prevent a subsequent act that would originally have constituted a violation from having all the force and effect of an original violation. The receipt by Landlord of rent or any other payment from Tenant with knowledge of the breach of any term, covenant, condition or other provision of this Lease shall not be deemed to be a waiver of such breach.

17.4 Severability. If any provision of this Lease or the application thereof is held to be invalid or unenforceable, the remainder of this Lease or the application of such provision to persons or circumstances other than those to which it is invalid or unenforceable shall not be affected thereby, and each of the provisions of this Lease shall be valid and enforceable, unless enforcement of this Lease as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would materially frustrate the purposes of this Lease.

17.5 Litigation Between Parties. In the event of any litigation between the parties hereto arising out of this Lease, the prevailing party shall be reimbursed for all reasonable costs, including, but not limited to, reasonable accountant's fees and attorney's fees. "Prevailing party" within the meaning of this section shall include, without limitation, a party that dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in such action. Landlord shall be further entitled to recover all attorney's fees incurred in connection with any hearing or motion for assumption or rejection of this Lease under Title 11 of United States Code. Tenant shall also pay immediately upon demand by Landlord reasonable attorney's fees and costs of service of any notice of an event of default under this Lease.

17.6 Surrender. A voluntary or other surrender of this Lease by Tenant or a mutual termination thereof between Landlord and Tenant shall not result in a merger but shall, at the option of Landlord, operate either as an assignment to the Landlord of any and all existing subleases and subtenancies or a termination of all or any existing subleases and subtenancies. This provision shall be contained in any and all assignments or subleases made pursuant to this Lease.

17.7 Construction. The provisions of this Lease shall be construed as a whole according to their common meaning and not strictly for or against Landlord or Tenant. The captions preceding the text of each section and subsection hereof are included for convenience of reference and shall be disregarded in the construction or interpretation of this Lease.

17.8 Entire Agreement. This written Lease, together with the exhibits hereto, contains all the representations and the entire understandings between the parties hereto with respect



to the subject matter hereof. Any prior correspondence, memoranda, or agreements are replaced in total by this Lease and the exhibits hereto. This Lease may be modified only by an agreement in writing signed by each of the parties

17.9 Governing Law. This Lease and all exhibits hereto shall be construed and interpreted in accordance with and be governed by all the provisions of the laws of California.

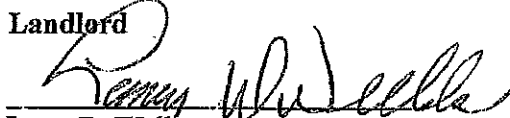
17.10 No Partnership. Nothing contained in this Lease shall be construed as creating any type or manner of partnership, joint venture, or joint enterprise with or between Landlord or Tenant

17.11 Time. Time is of the essence of this Lease and of every term and condition hereof.

17.12 Brokers. Each party (i) warrants to the other that the warranting party has not incurred any brokerage commissions by reason of entering into this Lease or otherwise for which the other party would be responsible and (ii) agrees to indemnify and hold harmless the other party against any liability or cost (including attorney's fees) arising out of any claim for any brokerage commission in connection with prior negotiations or other dealings by such warranting party with any broker or broker's agent.

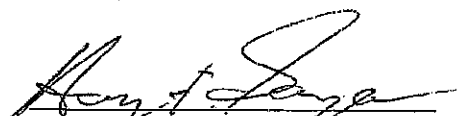
17.13 Jury Trial Waiver. Landlord and Tenant hereby waive their respective right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding, or hearing brought by either Landlord against Tenant or Tenant against Landlord on any matter whatsoever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any claim of injury or damage or the enforcement of any remedy under law, statute or regulation, emergency or otherwise, now or hereafter in effect.

Landlord


Larry D. Wells


Judith May

Tenant


Harvey F. Souza

Schedule of Exhibits

Exhibit 1	Diagram of Premises
Exhibit 2	Excerpt of Blumenfeld Lease (Article 19)



shall, within 30 days after execution of this Lease, deliver to Landlord evidence of such authority satisfactory to Landlord.

18.17 Jury Trial Waiver. Landlord and Tenant hereby waive their respective right to trial by jury of any cause of action, claim, counter-claim or cross-complaint in any action, proceeding and/or hearing brought by either Landlord against Tenant or Tenant against Landlord on any matter whatsoever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises or any claim of injury or damage or the enforcement of any remedy under law, statute or regulation, emergency or otherwise, now or hereafter in effect.

19. LANDLORD'S RESERVED RIGHTS

19.1 Statement of Intention. This article is set forth in this Lease with reference to the following recitals:

19.1.1 The Premises which is diagrammatically depicted in Exhibit 1 consists of two contiguous rectangular parcels of real property. The westerly rectangular parcel is approximately 141 feet by 126 feet ("Parcel I"). The easterly rectangular parcel is approximately 100 feet by 120 feet ("Parcel II").

19.1.2 The parties contemplate that, at some time during the term of this Lease, Landlord may undertake (but shall be under no obligation to undertake) the further development, improvement and/or leasing of Parcel I which may include, but shall not be limited to, (1) recordation of a parcel map creating separate legal parcels for Parcel I and Parcel II and/or (2) construction upon Parcel I of one or more buildings for retail, commercial and/or industrial use and appurtenant improvements and/or (3) paving of Parcel I and leasing of Parcel I as a parking lot.

19.1.3 In contemplation of the proposed development, improvement and/or further leasing of Parcel I, the parties desire to reserve to Landlord (1) the right to terminate this Lease as to Parcel I (with the balance of this Lease remaining in full force and effect as to Parcel II) and (2) easements over, under, upon and across Parcel II necessary or appropriate for the development, improvement and use of Parcel I once developed, improved and/or leased.

19.2 Landlord's Option to Terminate. At any time during the term of this Lease, Landlord may, at Landlord's option, terminate this Lease as to Parcel I. The option may be exercised by delivery by Landlord to Tenant of written notice of Landlord's exercise of the option. Termination of this Lease as to Parcel I shall be effective upon expiration of 30 days after the delivery to Tenant of the notice of exercise of the option. Upon exercise of the option and expiration of the 30-day period, the following shall apply:

19.2.1 This Lease shall be deemed to be amended such that all references to "the Premises" shall be construed to mean only Parcel II.

19.2.2 Tenant shall surrender to Landlord possession of Parcel I in the condition Parcel I would be required to be surrendered under the terms of this Lease if the term of this Lease had expired (e.g., Tenant shall be required to comply with Section 8.1.3 hereof).

19.2.3 If the County Assessor for San Diego County has not segregated Parcel I and Parcel II as separate tax parcels, Tenant shall pay Real Property Taxes in an amount equal to the sum of (1) the Real Property Taxes assessed against the value of



improvements installed in and upon Parcel II and (2) the Real Property Taxes assessed against the land value of Parcel I and Parcel II multiplied by a fraction, the numerator of which is the area of Parcel II and the denominator of which is the combined areas of Parcel I and Parcel II.

19.2.4 Upon request by Landlord, Tenant shall promptly deliver to Landlord such written consents, waivers, subordinations and/or other documents reasonably required to permit Landlord to develop/improve Parcel I and shall otherwise reasonably cooperate with Landlord to facilitate such improvement/development.

19.3 Landlord's Reserved Easements. For the purposes of development, improvement and use of Parcel I, Landlord reserves over, under, upon and across Tenant's interest in Parcel II non-exclusive easements for the purposes of (1) pedestrian and vehicular ingress and egress ("the Access Easement"), (2) construction, installation, repair, maintenance and replacement of lines, pipes, conduits, wires, meters, mains, poles and related improvements for the purpose of furnishing utilities to or across Parcel I, including, but not limited to, water, gas, telephone, cable television and sewer ("the Utility Easement") and (3) construction, installation, repair, maintenance and replacement of an illuminated directory sign (which may be illuminated) upon which may be placed the name, address and/or logo of occupants of Parcel I ("the Sign Easement").

19.3.1 The portion of Parcel II affected by the Access Easement and the Utility Easement shall be all portions of Parcel II which are not improved with a building. The portion of Parcel II affected by the Sign Easement shall be the 20 easterly feet of the northerly 12 feet of Parcel II; provided, however, Landlord may not exercise his rights under the Sign Easement in a manner which diminishes Tenant's available parking spaces. The parties further agree that Landlord's exercise of rights under the Sign Easement (1) shall not unreasonably obstruct Tenant's existing display sign and (2) may include attachment of additional signage to Tenant's existing sign and/or any sign which Tenant may subsequently construct.

19.3.2 The reserved easements are non-exclusive and shall be construed as permitting utilization of the easements to the full extent of maximum density of Parcel I as may be permitted by applicable public and private restrictions and ordinances and/or furnishing access and/or utilities to properties other than Parcel I.

19.3.3 Once commenced, Landlord shall use reasonable best efforts diligently to prosecute and complete any work of construction, installation, repair, maintenance and/or replacement pursuant to the above-reserved easements.

19.3.4 If, prior to permitting installation of any utility service, any one or more providers of utility service requires Tenant to execute (or subordinate to) a separate utility easement(s), then, within 10 days after Landlord's request therefor, Tenant shall deliver to Landlord any such easement and/or subordination agreement fully executed and in recordable form.

19.3.5 Notwithstanding the foregoing, at all times during the term of this Lease, use by Landlord (and Landlord's successors, assigns, permittees and/or such other person as Landlord shall allow beneficial use) of the easements shall not materially interfere with Tenant's quiet enjoyment of the Premises.

Landlord:

Tenant:

Larry D. Wells

Gerald Bodge

Judith D. May

Karen Bodge

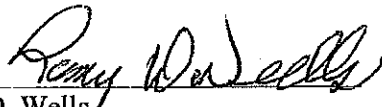
Commencement Date Confirmation re Parking Lot Lease

This Confirmation, dated December 8, 2004, is executed between Larry D. Wells and Judith May ("**Landlord**") and Harvey F. Souza ("**Tenant**") with reference to the following facts:

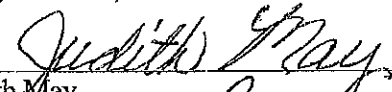
A. On or about November 1, 2004, Landlord and Tenant executed that certain Parking Lot Lease ("**the Lease**") pertaining to certain vacant land in Chula Vista, California

B. By this Confirmation, Landlord and Tenant desire to confirm the Commencement Date of the term of the Lease.

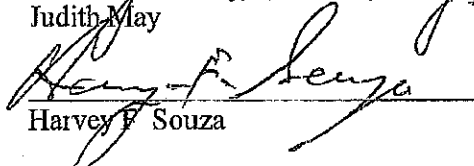
Landlord and Tenant hereby agree and confirm that the Commencement Date of the Lease is December 15, 2004.



Larry D. Wells



Judith May



Harvey F. Souza